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cause. The final determination may affirm, overturn, or modify the decision of the NASA Adjudication Official and shall constitute the final Agency action insofar as the findings are concerned. The final determination shall also be transmitted to the NASA Office of the Chief Scientist and the OIG.

(c) Once final Agency action has been taken pursuant to paragraphs (a) or (b) of this section, the recommendations for administrative action shall be sent to the relevant NASA components for further proceedings in accordance with applicable laws and regulations.

**APPENDIX TO PART 1275—RESEARCH
MISCONDUCT**

**NASA RESEARCH DISCIPLINES AND
RESPECTIVE ASSOCIATED ENTERPRISES**

1. Aeronautics Research—Aeronautics Enterprise

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2. Space Science Research—Space Science Enterprise
3. Earth Science Research and Applications—Earth Science Enterprise
4. Biomedical Research—Biological and Physical Research Enterprise
5. Fundamental Biology—Biological and Physical Research Enterprise
6. Fundamental Physics—Biological and Physical Research Enterprise
7. Research for Exploration Systems not covered by the disciplines above—Exploration Systems Enterprise
8. Other engineering research not covered by disciplines above—NASA Chief Engineer
9. Other technology research not covered by disciplines above—NASA Chief Technologist

PARTS 1276–1299 [RESERVED]

CHAPTER VI—AIR TRANSPORTATION SYSTEM STABILIZATION

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SUBCHAPTER A—OFFICE OF MANAGEMENT AND BUDGET

PART 1300—AVIATION DISASTER RELIEF—AIR CARRIER GUAR- ANTEE LOAN PROGRAM

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AUTHORITY: Title I of Pub. L. 107-42, 115
Stat. 230 (49 U.S.C. 40101 note).

SOURCE: 66 FR 52272, Oct. 12, 2001, unless
otherwise noted.

Subpart A—General

§ 1300.1 Purpose.

This part is issued by the Office of Management and Budget, (OMB) pursuant to Title I of the Air Transportation Safety and System Stabilization Act, Public Law 107-42, 115 Stat. 230 (“Act”). Specifically, Section 102(c)(2)(B) directs OMB to issue regulations setting forth procedures for application and minimum requirements for the issuance of Federal credit instruments under section 101(a)(1) of the Act.

§ 1300.2 Definitions.

(a) *Act* means the Air Transportation Safety and System Stabilization Act, Public Law 107-42, 115 Stat. 230 (49 U.S.C. 40101 note).

(b) *Administer*, *administering* and *administration*, mean the lender’s actions in making, disbursing, servicing (in-

cluding, but not limited to care, preservation and maintenance of collateral), monitoring, collecting, and liquidating a loan and security.

(c) *Agent* means that lender authorized to take such actions, exercise such powers, and perform such duties on behalf and in representation of all lenders party to a guarantee of a single loan, as is required by, or necessarily incidental to, the terms and conditions of the guarantee.

(d) *Air carrier* means an air carrier as defined in 49 U.S.C. 40102.

(e) *Applicant* means one or more air carriers applying for a Federal credit instrument issued by the Board under the program.

(f) The *Board*, for purposes of any operational and decisionmaking functions in connection with individual loan guarantees, means the voting members of the Air Transportation Stabilization Board established under Section 102 of the Act. The voting members of the Board are the Chairman of the Board of Governors of the Federal Reserve System (who is the Chairman of the Board), the Secretary of the Treasury and the Secretary of Transportation, or their designees. The Comptroller General, who is a non-voting member, will not participate in the review, operations, or deliberations of the Board in connection with individual loan guarantees, or otherwise participate in the Board’s exercise of any executive power, but may provide such audit, evaluation and other support to the Board as the Board may request, consistent with applicable auditing standards.

(g) *Borrower* means an “Obligor,” as defined in Section 102(a)(4) of the Act, and includes an air carrier that is primarily liable for payment of the principal of and interest on a Federal credit instrument, which party may be a corporation, partnership, joint venture, trust, or governmental entity, agency, or instrumentality.

(h) *Federal credit instrument*, as defined in Section 107(2) of the Act, means any guarantee or other pledge by the Board issued under the program to pledge the full faith and credit of

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the United States to pay all or part of any of the principal of and interest on a loan issued by a borrower and funded by a lender.

(i) *Financial obligation*, as defined in Section 102(a)(2) of the Act, means any note, bond, debenture, or other debt obligation issued by a borrower in connection with financing under the program.

(j) *Guarantee* means the written agreement between the Board and one or more lenders, pursuant to which the Federal government guarantees repayment of a specified percentage of the principal of and/or interest on the loan. Unless otherwise specified, guarantee includes any other pledge issued under a Federal credit instrument.

(k) *Lender* means any non-Federal qualified institutional buyer, as defined in Section 102(a)(3) of the Act, that funds a financial obligation subject to a guarantee issued by the Board. With respect to a guarantee of a single loan to which more than one lender is a party, the term lender means agent.

(l) *Loan*, unless otherwise specified, includes any financial obligation (i.e., note, bond, debenture, or other debt obligation) issued by a borrower.

(m) *Loan documents* mean the loan agreement and all other instruments, and all documentation between the lender and the borrower evidencing the making, disbursing, securing, collecting, or otherwise administering of the loan. (References to loan documents also include comparable agreements, instruments, and documentation for other financial obligations for which a guarantee is requested or issued.)

(n) *Program* means the air carrier guarantee loan program established by section 101(a)(1) and the related provisions of Title I of the Act.

(o) *Security* means all property, real or personal, required by the provisions of the guarantee or by the loan documents to secure repayment of any indebtedness of the borrower under the loan documents or guarantee.

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§ 1300.3 **Supplementary regulations of the Air Transportation Stabilization Board.**

(a) The regulations in this part are supplemented by the regulations of the Air Transportation Stabilization Board in part 1310 of this chapter in accordance with section 102(c)(2)(B) of the Act.

(b) This part and part 1310 of this chapter jointly govern the application procedures and the requirements for issuance of Federal credit instruments under section 101(a)(1) of the Act.

[67 FR 17258, Apr. 9, 2002]

Subpart B—Minimum Requirements and Application Procedures

§ 1300.10 **General standards for Board issuance of Federal credit instruments.**

(a) In accordance with section 102(c)(1) of the Act, the Board may enter into agreements with one or more borrowers to issue Federal credit instruments only if the Board determines, in its discretion and in accordance with the minimum requirements set forth in this part, that—

(1) The borrower is an air carrier for which credit is not reasonably available at the time of the transaction;

(2) The intended obligation by the borrower is prudently incurred; and

(3) Such agreement is a necessary part of maintaining a safe, efficient, and viable commercial aviation system in the United States.

(b) In accordance with section 102(c)(2)(A) of the Act, the Board shall enter into an agreement to issue a Federal credit instrument in such form and on such terms and conditions and subject to such covenants, representations, warranties, and requirements (including requirements for audits) as the Board determines are appropriate for satisfying the requirements of this part and any supplemental requirements issued by the Board under section 102(c)(2)(B) of the Act.

(c) In accordance with section 102(d)(1) of the Act, in entering into

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agreements to issue Federal credit instruments, the Board shall, to the extent feasible and practicable and in accordance with the requirements in this part, ensure that the Federal Government is compensated for the risk assumed in making guarantees.

(d) In accordance with Section 102(d)(2) of the Act, the Board is authorized to enter into contracts under which the Federal Government, contingent on the financial success of the air carrier, would participate in the gains of the air carrier or its security holders through the use of such instruments as warrants, stock options, common or preferred stock, or other appropriate equity instruments, except that the Board shall not accept an equity interest in an air carrier that gives the Federal Government voting rights.

(e) In accordance with Section 104(a) of the Act, the Board may only issue a Federal credit instrument to an air carrier after the air carrier enters into a legally binding agreement with the Board regarding certain employee compensation.

§ 1300.11 Eligible borrower.

(a) An eligible borrower must be an air carrier that can demonstrate, to the satisfaction of the Board, that:

(1) It has incurred (or is incurring) losses as a result of the terrorist attacks on the United States that occurred on September 11, 2001, which may include losses due to the unavailability of credit or the decrease in demand for that air carrier's services;

(2) It is not under bankruptcy protection or receivership when the application is submitted or when the Board issues the guarantee, unless the guarantee and the underlying financial obligation is to be part of a bankruptcy court-certified reorganization plan;

(3) It has agreed to permit such audits and reviews prior to the issuance of a guarantee, as the Board may deem appropriate, by an independent auditor acceptable to the Board;

(4) It has agreed to permit such audits and reviews during the period the loan is outstanding and three years after payment in full of the guaranteed loan, as the Board may deem appropriate, by an independent auditor ac-

ceptable to the Board or by the Comptroller General;

(5) In conducting audits and reviews pursuant to paragraphs (a) (3) and (4) of this section, it has agreed to provide access to the officers and employees, books, records, accounts, documents, correspondence, and other information of the borrower, its subsidiaries, affiliates, financial advisers, consultants, and independent certified accountants that the Board or the Comptroller General consider necessary.

(b) Status as an eligible borrower under this section does not ensure that the Board will issue the guarantee sought or preclude the Board from declining to issue a guarantee.

§ 1300.12 Eligible lender.

(a) A lender eligible to receive a Federal credit instrument approved by the Board must be a non-Federal qualified institutional buyer as defined in Section 102(a)(3) of the Act.

(b) If more than one institution participates as a lender in a single loan for which a Federal credit instrument is requested, each one of the institutions on the application must meet the requirements to be an eligible lender. An application for a guarantee of a single loan, for which there is more than one lender, must identify one of the institutions to act as agent for all. This agent is responsible for administering the loan and shall have those duties and responsibilities required of an agent, as set forth in the guarantee.

(c) Each lender, irrespective of any indemnities or other agreements between the lenders and the agent, shall be bound by all actions, and/or failures to act, of the agent. The Board shall be entitled to rely upon such actions and/or failures to act of the agent as binding the lenders.

(d) Status as an eligible lender under this section does not assure that the Board will issue the guarantee sought, or otherwise preclude the Board from declining to issue a guarantee.

§ 1300.13 Guarantee amount.

(a) Under Section 101(a)(1) of the Act, the Board is authorized to enter into agreements to issue Federal credit instruments that, in the aggregate, do not exceed \$10 billion.

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(b) The loan amount guaranteed to a single air carrier may not exceed that amount that, in the Board's sole discretion, the air carrier (or its successor) needs in order for it to provide commercial air services.

§ 1300.14 Guarantee percentage.

A guarantee issued by the Board must be less than 100 percent of the amount of principal and accrued interest of the loan guaranteed.

§ 1300.15 Loan terms.

(a) A loan guaranteed under the program shall be due and payable in full no later than seven years from the date on which the first disbursement of the loan is made.

(b) Loans guaranteed under the program must bear a rate of interest determined by the Board to be reasonable. In determining the reasonableness of an interest rate, the Board shall consider the percentage of the guarantee, any collateral, other loan terms, and current average yields on outstanding obligations of the United States with maturity comparable to the term of the loan guaranteed. The Board may reject an application to guarantee a loan if it determines the interest rate on such loan to be unreasonable.

(c) An eligible lender may assess and collect from the borrower such other fees and costs associated with the application and origination of the loan as are reasonable and customary, taking into consideration the amount and complexity of the credit. The Board may take such other fees and costs into consideration when determining whether to offer a guarantee to the lender.

§ 1300.16 Application process.

(a) Applications are to be submitted by the borrower. Borrowers may submit applications to the Board any time after October 12, 2001 through June 28, 2002. All applications must be received by the Board no later than 5 p.m. EDT, June 28, 2002, in the Board's offices. Borrowers should submit an original application and four copies. Applications will not be accepted via facsimile machine transmission or electronic mail. No application will be accepted

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for review if it is not received by the Board on or before June 28, 2002.

(b) Applications shall contain the following:

(1) A completed Form "Application for Air Carrier Guaranteed Loan";

(2) All loan documents that will be signed by the lender and the borrower, if the application is approved, including all terms and conditions of, and security or additional security (if any), to assure the borrower's performance under, the loan;

(3) A certification by the borrower that the borrower meets each of the requirements of the program as set forth in the Act, the regulations in this part, and any supplemental requirements issued by the Board;

(4) A certification by the lender that the lender meets each of the requirements of the program as set forth in the Act, the regulations in this part, and any supplemental requirements issued by the Board, and that the lender will provide the loan under the terms outlined in the loan documents if the Board approves the requested guarantee;

(5) A statement that the borrower is not under bankruptcy protection or receivership when the application is submitted, unless the guarantee and the underlying financial obligation is to be part of a bankruptcy court-certified reorganization plan;

(6) Consolidated financial statements of the borrower for the previous five years that have been audited by an independent certified public accountant, including any associated notes, as well as any interim financial statements and associated notes for the current fiscal year;

(7) Copies of the financial evaluations and forecasts concerning the air carrier's air service operations that were prepared by or for the air carrier within the three months prior to September 11, 2001;

(8) The borrower's business plan on which the loan is based that includes the following:

(i) A description of how the loan fits within the borrower's business plan, the purposes for which the borrower will use the loan, and an analysis showing that the loan is prudently incurred. If loan funds are to be used to purchase

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an existing firm (or the substantial assets of an existing firm), the business plan of the combined entity shall contain a discussion of the way in which any required regulatory or judicial approvals will be obtained, including antitrust approval for any proposed acquisition;

(ii) A discussion of a complete cost accounting and a range of revenue, operating cost, and credit assumptions;

(iii) A discussion of the financing plan on which the loan is based, showing that the operational needs of the borrower will be met during the term of the plan;

(iv) An analysis demonstrating that, at the time of the application, there is a reasonable assurance that the borrower will be able to repay the loan according to its terms, and a complete description of the operational and financial assumptions on which this demonstration is based;

(v) A discussion of the borrower's five-year history and five-year projection for revenue, cash flow, average realized prices, and average realized operating costs and a demonstration that the borrower will be able to continue operations if the requested guarantee is approved; and

(vi) If appropriate, a description of a plan to restructure the borrower's obligations, contracts, and costs. In preparing this description, the borrower shall jointly develop, with its existing secured and unsecured creditors, employees, or vendors, an agreed-upon plan to restructure the borrower's obligations, contracts and costs and incorporate this into the business plan submitted;

(9) A description of the losses that the borrower incurred (or is incurring) as a result of the terrorist attacks on the United States that occurred on September 11, 2001, including losses due to the unavailability of credit on reasonable terms or a decrease in demand for the air carrier's services;

(10) An analysis that demonstrates that the issuance of the guaranteed loan is a necessary part of maintaining a safe, efficient, and viable commercial aviation system in the United States and that credit is not reasonably available at the time of the transaction;

(11) A description of all security (if any) for the loan, including, as applicable, current appraisals of real and personal property, copies of any appropriate environmental site assessments, and current personal and corporate financial statements of any guarantors for the same period as required for the borrower. Appraisals of real property shall be prepared by State licensed or certified appraisers, and be consistent with the "Uniform Standards of Professional Appraisal Practice," promulgated by the Appraisal Standards Board of the Appraisal Foundation. Financial statements of guarantors shall be prepared by independent certified public accountants;

(12) If appropriate, a description of the Federal government's ability to participate, contingent on the financial success of the borrower, in the gains of the borrower or its security holders through the use of such instruments as warrants, stock options, common or preferred stock, or other appropriate equity instruments; and

(13) Any other information requested by the Board.

(c) The collections of information in this section and elsewhere in this part that are subject to the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*) have been approved by OMB and assigned control number 0348-0059. Under the Paperwork Reduction Act, an agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number.

§ 1300.17 Application evaluation.

(a) Eligibility screening. Applications will be reviewed to determine whether the lender and borrower are eligible, the information required under § 1300.16(b) is complete, and the proposed loan complies with applicable statutes and regulations. The Board may at any time reject an application that does not meet these requirements.

(b) Evaluation criteria. Applications that are determined to be eligible pursuant to paragraph (a) of this section shall be subject to a substantive review by the Board. In addition to the general standards for Board issuance of Federal credit instruments set forth in

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§1300.10, the Board shall consider the following evaluation factors:

(1) Reasonable assurance that the borrower will be able to repay the loan by the date specified in the loan document, which shall be no later than seven years from the date on which the first disbursement of the loan is made;

(2) The adequacy of the proposed provisions to protect the Federal Government, including sufficiency of any security provided by the borrower and the percentage of guarantee requested;

(3) The ability of the lender to administer the loan in full compliance with the requisite standard of care. In making this determination, the Board will assess:

(i) The lender's level of regulatory capital, in the case of banking institutions, or net worth, in the case of other institutions;

(ii) Whether the lender possesses the ability to administer the loan, including its experience with loans to air carriers; and

(iii) Any other matter the Board deems material to its assessment of the lender; and

(4) The ability of the borrower to demonstrate, to the Board's satisfaction, one or more of the following criteria. The Board shall give preference to applications that satisfy one or more of these criteria, giving greater preference to those applications that meet the greatest number of these criteria, as follows:

(i) A demonstration that the air carrier has presented a plan demonstrating that its business plan is financially sound;

(ii) A demonstration of greater participation in the loan by non-Federal entities;

(iii) A demonstration of greater participation in the loan by private entities, as opposed to public non-Federal entities;

(iv) A demonstration that the proposed instruments would ensure that the Federal Government will, contingent on the financial success of the air carrier, participate in the gains of the air carrier and its security holders;

(v) A demonstration of concessions by the air carrier's security holders, other creditors, or employees that will improve the financial condition of the

air carrier in a manner that will enable it to repay the loan in accordance with its terms and provide commercial air services on a financially sound basis after repayment;

(vi) A demonstration that guaranteed loan proceeds will be used for a purpose other than the payment or refinancing of existing debt;

(vii) A demonstration that the proposed instruments contain financial structures that minimize the Federal government's risk and cost associated with making loan guarantees. Examples include, but are not limited to, requests for guarantees that contain the following:

(A) A maturity period that is less than the maximum permitted under the rules in this part;

(B) Pledges of collateral;

(C) Agreements by the borrower's parent or other entities to reimburse the Federal government for any payments that the Federal government may make under the guarantee;

(D) A grant to the Federal government of favorable priority in the event of bankruptcy reflecting other creditors' agreement to subordinate their debts as a condition of the loan guarantee;

(E) Limitation of the borrower's issuance of dividends and/or the borrower's payments to its parent or subsidiaries or related companies;

(F) Limitation of the borrower's ability to incur additional debt, and/or the borrower's ability to incur capital expenditures, beyond that set forth in the business and financial plans that the Borrower submitted with the application;

(G) A demonstration of reasonable liquidity;

(H) A demonstration of favorable debt ratios; and

(I) A demonstration that any proceeds raised from private sector financing subsequent to disbursement of the federally guaranteed loan be used to repay the federally guaranteed loan.

(c) No guarantee will be made if either the borrower or lender has an outstanding delinquent Federal debt, including tax liabilities, until:

(1) The delinquent debt has been paid in full;

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(2) A negotiated repayment schedule is established; or

(3) Other arrangements, satisfactory to the agency responsible for collecting the debt are made.

(d) Decisions by the Board. The Board shall approve or deny applications received on or before June 28, 2002, in a timely manner as such applications are received. The Board may limit the amount of a loan guarantee made to initial applicants to ensure that sufficient funds remain available for subsequent applicants. The Board shall notify the borrower in writing of the approval or denial of an application. Approvals for loan guarantees shall be conditioned upon compliance with § 1300.18.

§ 1300.18 Issuance of the guarantee.

(a) The Board's decisions to approve any application for a guarantee under § 1300.17 is conditioned upon:

(1) The lender and borrower obtaining any required regulatory or judicial approvals;

(2) Evidence showing, to the Board's satisfaction, that the lender and borrower are legally authorized to enter into the loan under the terms and conditions submitted to the Board in the application;

(3) The Board's receipt of the loan documents and any related instruments, in form and substance satisfactory to the Board, and the guarantee, all properly executed by the lender, borrower, and any other required party other than the Board; and

(4) No material adverse change in the borrower's ability to repay the loan or any of the representations and warranties made in the application between the date of the Board's approval and the date the guarantee is to be issued.

(b) The Board may withdraw its approval of an application and rescind its offer of guarantee if the Board determines that the lender or the borrower cannot, or is unwilling to, provide adequate documentation and proof of compliance with paragraph (a) of this section within the time provided for in the offer.

(c) Only after receipt of all the documentation required by this section, will the Board sign and deliver the guarantee.

(d) A borrower receiving a loan guaranteed by the Board under this program shall pay an annual fee, in an amount and payable as determined by the Board. At the time that the guarantee is issued, the Board shall ensure that this annual fee will escalate for each year that the loan is outstanding and that such annual escalation reflects the borrower's potential ability to obtain credit in the private credit markets, in addition to any other factors the Board may deem appropriate.

§ 1300.19 Assignment or transfer of loans.

Neither the loan documents nor the guarantee of the Board, or any interest therein, may be modified, assigned, conveyed, sold or otherwise transferred by the lender, in whole or in part, without the prior written approval of the Board.

§ 1300.20 Lender responsibilities.

The lender shall have such obligations and duties to the Board as are set forth in the guarantee.

§ 1300.21 Guarantee.

The Board shall adopt a form of guarantee to be used by the Board under the program. Modifications to the provisions of the form of guarantee must be approved and adopted by the Board.

§ 1300.22 Termination of obligations.

The Board shall have such rights to terminate the guarantee as are set forth in the guarantee.

§ 1300.23 Participation in guaranteed loans.

(a) Subject to paragraph (b) of this section, a lender may distribute the risk of a portion of a loan guaranteed under the program by sale of participations therein if:

(1) Neither the loan note nor the guarantee is assigned, conveyed, sold, or transferred in whole or in part;

(2) The lender remains solely responsible for the administration of the loan; and

(3) The Board's ability to assert any and all defenses available to it under the guarantee and the law is not adversely affected.

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(b) The following categories of entities may purchase participations in loans guaranteed under the program:

- (1) Eligible lenders;
- (2) Private investment funds and insurance companies that do not usually invest in commercial loans;

(3) Air Carrier company suppliers or customers, who are interested in participating as a means of commencing or solidifying the supplier or customer relationship with the borrower; or

(4) Any other entity approved by the Board on a case-by-case basis.

SUBCHAPTER B—AIR TRANSPORTATION STABILIZATION BOARD

PART 1310—AIR CARRIER GUARANTEE LOAN PROGRAM ADMINISTRATIVE REGULATIONS AND AMENDMENT OR WAIVER OF A TERM OR CONDITION OF GUARANTEED LOAN

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- 1310.11 Regulations of the Office of Management and Budget.
- 1310.15 Amendment or Waiver of a term or condition of a guaranteed loan.
- 1310.20 Amendments.

AUTHORITY: Title I of Pub. L. 107-42, 115 Stat. 230 (49 U.S.C. 40101 note).

SOURCE: 67 FR 17259, Apr. 9, 2002, unless otherwise noted.

§ 1310.1 Purpose and scope.

This part is issued by the Air Transportation Stabilization Board pursuant to Section 102(c)(2)(B) of the Air Transportation Safety and System Stabilization Act, Public Law 107-42, 115 Stat. 230 (Act). This part describes the Board's authorities, organizational structure, the rules by which the Board takes actions, and procedures for public access to Board records.

§ 1310.2 Composition of the Board.

The Board consists of the Chairman of the Board of Governors of the Federal Reserve System or the designee of the Chairman, who acts as Chairman of the Board, the Secretary of the Treasury or the designee of the Secretary, the Secretary of Transportation or the designee of the Secretary, and the Comptroller General of the United States or the designee of the Comptroller General, who serves as a nonvoting member. The Comptroller General of the United States or the des-

ignee of the Comptroller General, who serves as a nonvoting member, shall not be involved in any of the Board's discussions or deliberations in connection with individual loan guarantee applications.

§ 1310.3 Authority of the Board.

Pursuant to the provisions of the Act, the Board is authorized to guarantee loans provided to airlines by eligible lenders in accordance with the procedures, rules, and regulations established by the Board, to make the determinations authorized by the Act, and to take such other actions as necessary to carry out its functions specified in the Act.

§ 1310.4 Offices.

The principal offices of the Board are at 1120 Vermont Avenue, NW., Suite 970, Washington, DC 20005.

§ 1310.5 Meetings and actions of the Board.

(a) *Place and frequency.* The Board meets, on the call of the Chairman, in order to consider matters requiring action by the Board. The time and place for any such meeting shall be determined by the members of the Board.

(b) *Quorum and voting.* Two voting members of the Board constitute a quorum for the transaction of business. All decisions and determinations of the Board shall be made by a majority vote of the voting members. All votes on determinations of the Board required by the Act shall be recorded in the minutes. A Board member may request that any vote be recorded according to individual Board members.

(c) *Agenda of meetings.* As a general rule, an agenda for each meeting shall be distributed to members of the Board at least 48 hours in advance of the date of the meeting, together with copies of materials relevant to the agenda items.

(d) *Minutes.* The Chief Administrative Officer shall keep minutes of each Board meeting and of action taken without a meeting, a draft of which is to be distributed to each member of the

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Board as soon as practicable after each meeting or action. To the extent practicable, the minutes of a Board meeting shall be corrected and approved at the next meeting of the Board.

(e) *Use of conference call communications equipment.* Any member may participate in a meeting of the Board through the use of conference call, telephone or similar communications equipment, by means of which all persons participating in the meeting can simultaneously speak to and hear each other. Any member so participating in a meeting shall be deemed present for all purposes, except that the Comptroller General of the United States or the designee of the Comptroller General, who serves as a nonvoting member, shall not participate in any of the Board's discussions or deliberations in connection with individual loan guarantee applications. Actions taken by the Board at meetings conducted through the use of such equipment, including the votes of each member, shall be recorded in the usual manner in the minutes of the meetings of the Board.

(f) *Actions between meetings.* When, in the judgment of the Chairman, it is desirable for the Board to consider action without holding a meeting, the relevant information and recommendations for action may be transmitted to the members by the Chief Administrative Officer and the voting members may communicate their votes to the Chairman in writing (including an action signed in counterpart by each Board member), electronically, or orally (including telephone communication). Any action taken under this paragraph has the same effect as an action taken at a meeting. Any such action shall be recorded in the minutes. If a voting member believes the matter should be considered at a meeting, the member may so notify the Chief Administrative Officer and the matter will be scheduled for consideration at a meeting.

(g) *Delegations of authority.* The Board may delegate authority, subject to such terms and conditions as the Board deems appropriate, to the Executive Director, the Legal Counsel, or the Chief Administrative Officer, to take certain actions not required by the Act

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to be taken by the Board. All delegations shall be made pursuant to resolutions of the Board and recorded in writing, whether in the minutes of a meeting or otherwise. Any action taken pursuant to delegated authority has the effect of an action taken by the Board.

§ 1310.6 Staff.

(a) *Executive Director.* The Executive Director advises and assists the Board in carrying out its responsibilities under the Act, provides general direction with respect to the administration of the Board's actions, directs the activities of the staff, and performs such other duties as the Board may require.

(b) *Legal Counsel.* The Legal Counsel provides legal advice relating to the responsibilities of the Board and performs such other duties as the Executive Director may require.

(c) *Chief Administrative Officer.* The Chief Administrative Officer sends notice of all meetings, prepares minutes of all meetings, maintains a complete record of all votes and actions taken by the Board, has custody of all records of the Board and performs such other duties as the Executive Director may require.

§ 1310.7 Communications with the Board.

Communications with the Board shall be conducted through the staff of the Board.

§ 1310.8 Freedom of Information Act.

While the Board is not part of the Department of the Treasury, the Board follows the regulations promulgated by the Department of the Treasury at subpart A ("Freedom of Information Act") of part 1 ("Disclosure of Records") of title 31 ("Money and Finance: Treasury") of the Code of Federal Regulations (CFR). The procedures of 31 CFR 1.1 through 1.7 shall be followed for requesting access to records maintained by the Board, and processing such requests. Any reference in 31 CFR 1.1 through 1.7 to the "Department of the Treasury," the "Department" or to a "bureau," shall be construed to refer to the Board. In the event that the regulations at subpart A of part 1 of title 31 of the CFR subsequently are amended

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by the Department of the Treasury, the Board will follow those amended regulations. The following additional information is provided to implement 31 CFR 1.1 through 1.7 with respect to the Board.

(a) *Public reading room.* The public reading room for the Board is the Treasury Department Library. The Library is located in the Main Treasury Building, 1500 Pennsylvania Avenue, NW., Washington, DC 20220. For building security purposes, visitors are required to make an appointment by calling 202-622-0990.

(b) *Requests for records.* Initial determinations under 31 CFR 1.5(h) as to whether to grant requests for records of the Board will be made by the Chief Administrative Officer or the designate of such official. Requests for records should be addressed to: Freedom of Information Request, Air Transportation Stabilization Board, Assistant Director, Disclosure Services, Department of the Treasury, 1500 Pennsylvania Avenue, NW., Washington, DC 20220.

(c) *Administrative appeal of initial determination to deny records.* (1) Appellate determinations under 31 CFR 1.5(i) with respect to records of the Board will be made by the Executive Director, or the delegate of such official.

(2) Appellate determinations with respect to requests for expedited processing shall be made by the Executive Director or the delegate of such official.

(3) Appeals should be addressed to: Freedom of Information Appeal, Air Transportation Stabilization Board, Assistant Director, Disclosure Services, Department of the Treasury, 1500 Pennsylvania Avenue, NW., Washington, DC 20220.

(d) *Delivery of process.* Service of process will be received by the Legal Counsel of the Board or the delegate of such official and shall be delivered to the following location: Legal Counsel, Air Transportation Stabilization Board, 1120 Vermont Avenue, NW., Suite 970, Washington, DC 20005.

§ 1310.9 Restrictions on lobbying.

(a) While the Board is not part of the Department of the Treasury, the regulations promulgated by the Department of the Treasury at part 21 (“New

Restrictions on Lobbying”) of title 31 (“Money and Finance: Treasury”) of the Code of Federal Regulations (CFR), including the appendices thereto, are applicable in connection with any of the following covered Federal actions: the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement. The regulations promulgated by the Department of the Treasury at 31 CFR part 21 also are applicable to a request for, or receipt of, any Federal contract, grant, loan or cooperative agreement; and to a request for, or receipt of, a commitment providing for the United States to insure or guarantee a loan. These terms are defined in 31 CFR 21.105.

(b) In the event that the regulations at part 21 of title 31 of the CFR subsequently are amended by the Department of the Treasury, the Board will follow those amended regulations.

§ 1310.10 Governmentwide debarment and suspension.

While the Board is not part of the Department of the Treasury, the regulations promulgated by the Department of the Treasury at subpart A (“General”), subpart B (“Effect of Action”), subpart C (“Debarment”), subpart D (“Suspension”), and subpart E (“Responsibilities of GSA, Agency and Participants”) of part 19 (“Governmentwide Debarment and Suspension (Non-procurement) and Governmentwide Requirements For Drug-Free Workplace (Grants)”) of title 31 (“Money and Finance: Treasury”) of the Code of Federal Regulations (CFR) are applicable to the Board. Any reference in 31 CFR part 19 to the “Department of the Treasury” or the “Department” shall be construed to refer to the Board. In the event that the regulations at subpart A, B, C, D or E of part 19 of title 31 of the CFR subsequently are amended by the Department of the Treasury, the Board will follow those amended regulations.

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§ 1310.11 Regulations of the Office of Management and Budget.

(a) The regulations in this part supplement the regulations of the Office of Management and Budget in part 1300 of this chapter in accordance with section 102(c)(2)(B) of the Act.

(b) This part and part 1300 of this chapter jointly govern the application procedures and the requirements for issuance of Federal credit instruments under section 101(a)(1) of the Act.

§ 1310.15 Amendment or Waiver of a term or condition of a guaranteed loan.

The Board may, in its discretion, charge the borrower a fee, in an

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amount and payable as determined by the Board, for each amendment to, or waiver of, any term or condition of any guaranteed loan document or related instrument approved by the Board.

[70 FR 10037, Mar. 2, 2005]

§ 1310.20 Amendments.

The procedures in this part may be adopted or amended, or new procedures may be adopted, only by majority vote of the Board. Authority to adopt or amend these procedures may not be delegated.